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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,351	11/27/2001	Chih-Kung Lee	JCLA8275	6055

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03/27/2003

EXAMINER

SPEARS, ERIC J

ART UNIT PAPER NUMBER

2878

DATE MAILED: 03/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/997,351

Applicant(s)

LEE, ET AL.

Examiner

Eric J Spears

Art Unit

2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

✓ Figures 1-6 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cylindrical diffraction grating and the radiate diffraction grating must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Specification*

→ The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

✓ The disclosure is objected to because of the following informalities: the top of  
✓ page 3 lists supposed US Patent Application serial numbers with dates. The listed numbers appear as if they should refer to US Patent serial numbers instead because of the dates give. ✓ On page 14, line 8, the second 18, should apparently read 19.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is vague and indefinite as it does not recite device elements which are performing the numerous method steps and functions recited in the claim. Examples of method step phraseology from claim 1 are: "must be sufficiently approximate" on page 17, line 2; "after reflection" on page 17, lines 10-11; "after the polarizing state...has been changed.." on page 17, line 16-17, among others. The claim does not recite elements which perform these functions but rather only narrative, method step type limitations. Claim 1 is therefore vague, indefinite and hard to follow not understood.

✓ The term "sufficient" in claim 1, line 4 is a relative term which renders the claim indefinite. The term "sufficient" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

➔ Further regarding Claim 1, it is not understood what the term "object that is under measured" is intended to mean.

Further regarding Claim 1, the phrase "can be shifted" on page 16, line 12 renders the claim vague as it is not understood what limitation this places on the claim.

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✓ On page 16, lines 18 and 20, Claim 1 recites the limitation "the original polarizing direction". There is insufficient antecedent basis for this limitation in the claim.

✓ The term "sufficiently approximate" in Claim 1 (page 17, line 2) is a relative term which renders the claim indefinite. The term "sufficiently approximate" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

✓ The term "approximately enough" in claim 1 (page 17, line 6) is a relative term which renders the claim indefinite. The term "approximately enough" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

✓ Further regarding Claim 1, the terms "first orthogonal signal", on page 18, lines 7-15, and "second orthogonal signal", on page 18, lines 7-15, are used to mean more than one different thing. For example, on lines 12-13, the "a second orthogonal signal" is recited when a recitation of "the second orthogonal signal already has already been recited on line 8. Elements must be named so that they do not reuse a name already used.

✓ Claim 5, lines 3 and 4 recites the limitation "the polarizing mechanism". There is insufficient antecedent basis for this limitation in the claim.

✓ Claim 5, line 7 recites the limitation "the first polarizing state mechanism". There is insufficient antecedent basis for this limitation in the claim.

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✓ Claim 5, line 12 recites the limitation "the two parallel lights". There is insufficient antecedent basis for this limitation in the claim.

✓ Claim 6, line 10 recites the limitation "the light rotation-polarizing element". There is insufficient antecedent basis for this limitation in the claim.

Regarding Claim 9, the limitation making the "third quarter wave plate" and "the fourth quarter wave plate" the same element renders the claim indefinite as they are assumed to be different elements when they are initially claimed with different names. Any art which read on the base claim could not read on the dependent claim (i.e. claim 9). This amounts to an elimination of an element.

✓ Further regarding Claim 9, the phrase "to simplify" renders the claim indefinite as no standard of comparison is given.

Claims not specifically mentioned are indefinite due to their dependency from an indefinite base claim.

No art has been applied to these claims as the limitations in claim 1 are so indefinite.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Spears whose telephone number is (703) 306-0033. The examiner can normally be reached on Monday-Friday from 9:00am to 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on (703) 308-4852. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

EJS  
03/22/03

  
STEPHONE ALLEN  
PRIMARY EXAMINER